

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

OP.No. 4747 of 1998(M)

PETITIONERS:

- 1. KERALA FIRE SERVICE DRIVERS AND MECHANIC ASSOCIATION REP.BY ITS STATE PRESIDENT P.REGIDAS.**
- 2. ABDUL RASHEED, DIVISIONAL SECRETARY, SOUTHERN ASSOCIATION COMMITTEE, KERALA FIRE SERVICE DREIVERS AND MECHANIC ASSOCIATION.**

**BY ADV. SMT.KOCHUMOL KODUVATH
SRI.KARJET KODUVATH**

RESPONDENTS:

- 1. STATE OF KERALA REP.BY ITS CHIEF SECRETARY TO GOVERNMENT, HOME DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. COMMISSIONER AND SECRETARY TO GOVERNMENT, HOME (F) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
- 3. COMMANDER GENERAL HOME GUARDS, CIVIL DEFENDE AND FIRE SERVICES , THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SRI.V.T.K.MOHANAN

THIS ORIGINAL PETITION HAVING COME UP FOR ADMISSION ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NOS.8573,8574 & 43318/1998 IN OP.4747/1998

CLOSED

05.07.2007

SD/- T.R.RAMACHANDRAN NAIR, JUDGE

/TRUE COPY/

tss

T.R.RAMACHANDRAN NAIR, J.

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O.P.No. 4747 of 1998 (M)
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Dated this the 5th day of July, 2007

J U D G M E N T

The petitioners are challenging Ext.P8 by which a one line reply has been communicated in answer to the representation filed by them. A reading of Ext.P8 shows that the same is not supported by any reasons.

2. The matter relates to the amendment of Special Rules, namely, Kerala Fire Subordinate Service Rules. The petitioners are working as Firemen Driver-cum-Pump Operators in the Kerala Fire Subordinate Service Department. As per the Special Rules of 1965, the said post was included as a feeder category for promotion to the post of Assistant Station Officer along with the post of leading Fireman and Driver Mechanic in the ratio 9:1:2. But when the Special Rules were amended as per G.O.(P) No.99/88/Home, dated 17/08/1988, this category was specifically excluded from among feeder categories for promotion as Assistant Station Officer. This resulted in acute hardship to the petitioners and similarly situated persons. They have been submitting

representations seeking to restore the position. Later on, through Ext.P5, it appears that the matter was taken up before the Government by the Commandant General himself and it shows that there were proposals to amend the Special Rules to redress the grievance of the petitioners and like persons also. Again the matter got delayed, presumably for administrative reasons which compelled the petitioners to approach this Court by filing O.P.No.12245/1997. In the above original petition, the amended Special Rules, 1988 was challenged and various other reliefs had also been sought for. By Ext.P7 judgment, the said original petition was disposed of, directing the Government to take a decision in the light of the recommendation already made by the third respondents, namely, the Commandant General, Home Guard. It was noted in the judgment that in the draft rules for the amendment, the category of Fireman Driver-cum-Pump Operator has been included as feeder category for promotion to the post of Assistant Station Officer.

3. A reading of Ext.P8 shows that the Government has not considered the matter in the right perspective, contends the

counsel for the petitioner. In the counter affidavit filed by the first respondent, even though, it is stated that the proposal for amendment to include category 5 also in the feeder category for promotion to the post of Assistant Station Officer was considered by the Government, the reasons which prompted the Government to drop the same are not explained in the counter affidavit. Therefore, neither in Ext.P8 letter nor in the counter affidavit, the first respondent has attempted to explain the situation leading to the issuance of Ext.P8. In this original petition also there is a challenge to the Special Rules of 1988.

4. As far as persons entering the service are concerned in stagnation in particular cadres without sufficient avenues for any promotion will result in acute hardship to them. The petitioners have been approaching the Government way back from 1988 onwards. Actually, draft proposals for amendment have been forwarded also. This is the second time they have approached this Court with the very same grievance. When this Court while disposing of the O.P.No.12245/1997 had directed the Government to consider their representation, the Government should have

considered the matter on merits and a reasoned order should have been passed by the Government. The absence of reasons in Ext.P8 and the absence of any explanation in the counter affidavit has disabled this Court also to consider the issue on merits. This is totally an unhappy situation.

In the above circumstances, Ext.P8 is quashed. The first respondent is directed to consider the grievance of the petitioners as per their representation in the light of the recommendation already made by the Commandant, namely, the third respondent herein. The petitioners shall be given a personal hearing also before a decision is taken by the Government in the matter. Appropriate orders will be passed within a period of four months from the date of receipt of a copy of this judgment. The original petition is disposed of, accordingly.

T.R.RAMACHANDRAN NAIR,
Judge

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O.P.No.4747/1998(M)

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T.R.RAMACHANDRAN NAIR, J.

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O.P.No. 4747 of 1998 (M)
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J U D G M E N T

5th July, 2007